

House Study Bill 622 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON NUNN)

A BILL FOR

1 An Act relating to consumer protection modifying provisions
2 applicable to consumer security freezes and personal
3 information security breach protection.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714G.2, Code 2018, is amended to read as
2 follows:

3 **714G.2 Security freeze.**

4 1. A consumer may submit ~~by certified mail to a consumer~~
5 ~~reporting agency~~ a written request for a security freeze to
6 a consumer reporting agency by first-class mail, telephone,
7 facsimile, secure internet connection, secure electronic mail,
8 or other secure electronic contact method. The consumer must
9 submit proper identification ~~and the applicable fee~~ with the
10 request. Within ~~five~~ three business days after receiving
11 the request, the consumer reporting agency shall commence
12 the security freeze. Within ~~ten~~ three business days after
13 commencing the security freeze, the consumer reporting agency
14 shall send a written confirmation to the consumer of the
15 security freeze, a personal identification number or password,
16 other than the consumer's social security number, for the
17 consumer to use in authorizing the suspension or removal of
18 the security freeze, including information on how the security
19 freeze may be temporarily suspended.

20 2. a. If a consumer requests a security freeze from a
21 consumer reporting agency that compiles and maintains files
22 on a nationwide basis, the consumer may request to have the
23 security freeze applied to any other consumer reporting agency
24 that compiles and maintains files on consumers on a nationwide
25 basis.

26 b. For purposes of this subsection, *"consumer reporting*
27 *agency that compiles and maintains files on a nationwide basis"*
28 means the same as defined in 15 U.S.C. §1681a(p).

29 Sec. 2. Section 714G.3, subsection 1, Code 2018, is amended
30 to read as follows:

31 1. A consumer may request that a security freeze be
32 temporarily suspended to allow the consumer reporting agency to
33 release the consumer credit report for a specific time period.
34 The consumer reporting agency ~~may~~ shall develop procedures
35 to expedite the receipt and processing of requests ~~which may~~

1 ~~involve the use of telephones by first-class mail, telephone,~~
2 ~~facsimile transmissions, the secure internet connection, secure~~
3 ~~electronic mail, or other secure electronic media contact~~
4 ~~method.~~ The consumer reporting agency shall comply with
5 the request within three business days after receiving the
6 consumer's written request, or within fifteen minutes after
7 the consumer's request is received by the consumer reporting
8 agency through facsimile, the secure internet connection,
9 secure electronic mail, or other secure electronic contact
10 ~~method chosen by the consumer reporting agency,~~ or the use of
11 a telephone, during normal business hours. The consumer's
12 request shall include all of the following:

- 13 a. Proper identification.
14 b. The personal identification number or password provided
15 by the consumer reporting agency.
16 c. Explicit instructions of the specific time period
17 designated for suspension of the security freeze.

18 ~~d. Payment of the applicable fee.~~

19 Sec. 3. Section 714G.4, unnumbered paragraph 1, Code 2018,
20 is amended to read as follows:

21 A security freeze remains in effect until the consumer
22 requests that the security freeze be removed. A consumer
23 reporting agency shall remove a security freeze within three
24 business days after receiving a request for removal that
25 includes proper identification of the consumer, and the
26 personal identification number or password provided by the
27 consumer reporting agency, ~~and payment of the applicable fee.~~

28 Sec. 4. Section 714G.5, Code 2018, is amended to read as
29 follows:

30 **714G.5 Fees prohibited.**

31 ~~1. A consumer reporting agency shall not charge any fee to~~
32 ~~a consumer who is the victim of identity theft for commencing~~
33 ~~a security freeze, temporary suspension, or removal if with~~
34 ~~the initial security freeze request, the consumer submits a~~
35 ~~valid copy of the police report concerning the unlawful use of~~

1 ~~identification information by another person.~~

2 ~~2. A consumer reporting agency may charge a fee not to~~
3 ~~exceed ten dollars to a consumer who is not the victim of~~
4 ~~identity theft for each security freeze, removal, or for~~
5 ~~reissuing a personal identification number or password if the~~
6 ~~consumer fails to retain the original number. The consumer~~
7 ~~reporting agency may charge a fee not to exceed twelve dollars~~
8 ~~for each temporary suspension of a security freeze.~~

9 A consumer reporting agency shall not charge a fee to a
10 consumer for providing any service pursuant to this chapter,
11 including but not limited to placing, removing, temporarily
12 suspending, or reinstating a security freeze.

13 Sec. 5. Section 714G.8A, subsection 1, paragraph d, Code
14 2018, is amended by striking the paragraph.

15 Sec. 6. Section 714G.8A, subsection 3, paragraph d, Code
16 2018, is amended by striking the paragraph.

17 Sec. 7. Section 714G.8A, subsection 5, Code 2018, is amended
18 to read as follows:

19 5. ~~a.~~ A consumer reporting agency ~~may~~ shall not charge
20 a reasonable fee, ~~not to exceed five dollars,~~ for each the
21 placement, or removal, or reinstatement of a protected consumer
22 security freeze. A consumer reporting agency may not charge
23 any other fee for a service performed pursuant to this section.

24 ~~b.~~ Notwithstanding paragraph "a", a fee may not be charged
25 by a consumer reporting agency pursuant to either of the
26 following:

27 ~~(1) If the protected consumer's representative has obtained~~
28 ~~a police report or affidavit of alleged identity theft under~~
29 ~~section 715A.8 and submits a copy of the report or affidavit to~~
30 ~~the consumer reporting agency.~~

31 ~~(2) A request for the commencement or removal of a protected~~
32 ~~consumer security freeze is for a protected consumer who is~~
33 ~~under the age of sixteen years at the time of the request and~~
34 ~~the consumer reporting agency has a consumer credit report~~
35 ~~pertaining to the protected consumer.~~

1 Sec. 8. Section 715C.1, subsections 1 and 5, Code 2018, are
2 amended to read as follows:

3 1. "*Breach of security*" means unauthorized acquisition,
4 or reasonable belief of unauthorized acquisition, of personal
5 information maintained in computerized any form, including
6 but not limited to electronic or paper form, by a person that
7 compromises the security, confidentiality, or integrity of
8 the personal information. "*Breach of security*" also means
9 unauthorized acquisition of personal information maintained
10 by a person in any medium, including on paper, that was
11 transferred by the person to that medium from computerized
12 form and that compromises the security, confidentiality, or
13 integrity of the personal information. Good faith acquisition
14 of personal information by a person or that person's employee
15 or agent for a legitimate purpose of that person is not a
16 breach of security, provided that the personal information
17 is not used in violation of applicable law or in a manner
18 that harms or poses an actual threat to the security,
19 confidentiality, or integrity of the personal information.

20 5. "*Encryption*" means the use of an one-hundred-twenty-
21 eight-bit or higher algorithmic process to transform data into
22 a form in which the data is rendered unreadable or unusable
23 without the use of a confidential process or key.

24 Sec. 9. Section 715C.2, subsections 7 and 8, Code 2018, are
25 amended to read as follows:

26 7. ~~This section does~~ Subsections 1 through 6 shall not apply
27 to any of the following:

28 a. A person who complies with notification requirements or
29 breach of security procedures that provide greater protection
30 to personal information and at least as thorough disclosure
31 requirements than that provided by ~~this section~~ pursuant to
32 the rules, regulations, procedures, guidance, or guidelines
33 established by the person's primary or functional federal
34 regulator.

35 b. A person who complies with a state or federal law

1 that provides greater protection to personal information and
2 at least as thorough disclosure requirements for breach of
3 security or personal information than that provided by this
4 section.

5 *c.* A person who is subject to and complies with
6 regulations promulgated pursuant to Tit. V of the federal
7 Gramm-Leach-Bliley Act of 1999, 15 U.S.C. §6801 – 6809.

8 *d.* A person who is subject to and complies with regulations
9 promulgated pursuant to Tit. II, subtit. F of the federal
10 Health Insurance Portability and Accountability Act of 1996,
11 42 U.S.C. §1320d – 1320d-9, and Tit. XIII, subtit. D of the
12 federal Health Information Technology for Economic and Clinical
13 Health Act of 2009, 42 U.S.C. §17921 – 17954.

14 8. Any person who owns or licenses ~~computerized~~ data
15 that includes a consumer's personal information that is
16 used in the course of the person's business, vocation,
17 occupation, or volunteer activities and that was subject to a
18 breach of security requiring notification to more than five
19 hundred ~~residents of this state~~ consumers pursuant to ~~this~~
20 ~~section~~ subsection 1 or any of the laws, rules, regulations,
21 procedures, guidance, or guidelines set forth in subsection
22 7 shall give written notice of the breach of security
23 ~~following discovery of such breach of security, or receipt~~
24 ~~of notification under~~ subsection 2, to the director of the
25 consumer protection division of the office of the attorney
26 general within five business days after giving notice of the
27 breach of security to any consumer pursuant to this section.

EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to consumer security freezes and personal
32 information security breach protection.

33 Current law permits a consumer to submit a request for a
34 security freeze via certified mail. The bill expands the
35 methods permitted for a consumer to submit a request for

1 a security freeze to allow such requests to be submitted
2 via first-class mail, telephone, facsimile, secure internet
3 connection, secure electronic mail, or other secure electronic
4 contact method.

5 The bill reduces the number of days by which a consumer
6 reporting agency must commence a security freeze after
7 receiving a request from five to three business days. The bill
8 also reduces the number of days by which a consumer reporting
9 agency must send written confirmation to a consumer after
10 commencing a security freeze from ten to three business days.

11 The bill provides that if a consumer requests a security
12 freeze from a consumer reporting agency that compiles and
13 maintains files on a nationwide basis, as defined in the bill,
14 the consumer may request to have the security freeze applied to
15 any other similar consumer reporting agency.

16 The bill requires consumer reporting agencies to develop
17 procedures to expedite the receipt and processing of security
18 freeze suspension requests received via the same methods
19 permitted for consumers to submit such requests. The bill
20 requires a consumer reporting agency to commence a security
21 freeze suspension within 15 minutes after receiving a request
22 through telephone, facsimile, secure internet connection,
23 secure electronic mail, or other secure electronic contact
24 method.

25 The bill prohibits consumer reporting agencies from charging
26 fees to consumers for providing any service pursuant to Code
27 chapter 714G, including but not limited to placing, removing,
28 temporarily suspending, or reinstating a security freeze. The
29 bill also prohibits consumer reporting agencies from charging
30 fees for placing or removing a protected consumer security
31 freeze pursuant to Code section 714G.8A. The bill removes
32 several references to payment of fees in Code chapter 714G.

33 The bill also modifies various provisions relating to
34 personal information security breach protection in Code
35 chapter 715C. The bill expands the definition of "breach of

1 security" to include the reasonable belief of unauthorized
2 acquisition of personal information, which may be in any
3 form, including electronic or paper form. However, the bill
4 removes the unauthorized acquisition of personal information
5 that was transferred from computerized form to another medium
6 from the definition of "breach of security". The definition
7 of "encryption" is modified to mean the use of an 128-bit or
8 higher algorithmic process.

9 The bill exempts from the consumer notification requirements
10 persons who are subject to and comply with specified federal
11 health information laws.

12 Current law requires a person who owns or licenses personal
13 information that is subject to a breach of security requiring
14 notification to more than 500 consumers in the state, as
15 required by Code section 715C.2, to give written notice of the
16 breach of security to the director of the consumer protection
17 division of the office of the attorney general. The bill
18 provides that written notification to the attorney general
19 is also required for breaches of security where written
20 notification to more than 500 consumers in the state is
21 required by a person's primary or functional federal regulator,
22 a state or federal law that gives greater protection to
23 personal information than provided in Code section 715C.2, or
24 certain federal law.